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| CHOKSHI, PINKAL R | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,716

Applicant(s)

VERHAEGH ET AL.

Examiner

PINKAL CHOKSHI

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 01/05/2009 have been fully considered but they are not persuasive. Applicant asserts that Alexander does not disclose providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs. Examiner respectfully disagrees. Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information, where viewer selected his favorite programs, to customized advertisements related to his/her favorite programs. Alexander further discloses (col.30, lines 17-37) that the profile program determines viewer characteristics relating to interest in accessing information about product advertisements including the correlation of such interest with the viewer preferences. The rejection is maintained.

Furthermore, Applicant alleges that Alexander does not disclose providing a metric and determining metric by summing, over each of a plurality of programs, the product of the program scores and the correlation factors for the commercials. +Examiner respectfully disagrees. Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalize the scheduling of telecast advertisements that are related to the television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays different advertisements depending upon which program the viewer is currently

watching. From this example, it is clearly determined that Alexander provides targeted advertisement which depends on user's favorite program and this targeted advertisement is correlated to the program user's watching. The rejection is maintained.

With regard to the dependent claims, the respective rejections are maintained as Applicant has only argued that the secondary references do not cure the deficiencies of Alexander, nevertheless it is the Examiner's contention that Alexander does not contain any deficiencies. See the rejection below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,177,931 to Alexander et al (hereafter referenced as Alexander) in view of US Patent 7,146,627 to Ismail et al (hereafter referenced as Ismail).

Regarding **claim 1**, "a method for selecting personalized commercials" reads on the method for improved opportunities for the commercial advertiser to reach the viewer (abstract) disclosed by Alexander and represented in Fig. 1.

As to "said method comprising the steps of: providing, for each of a plurality of programs, a score indicating a degree of preference of at least one

user in relation thereto" Alexander discloses (col.28, lines 11-21) that the viewer provide profile information such as top favorite programs to the EPG provider.

As to "providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs" Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information, where viewer selected his favorite programs, to customized advertisements related to his/her favorite programs.

As to "providing, for each of the plurality of commercials, a metric indicating a degree of effectiveness in relation to the at least one user based on the scores and the respective correlation factors" Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalized the scheduling of telecast advertisements that are related to the television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays different advertisements depending upon which program the viewer is currently watching.

Alexander meets all the limitations of the claim except he does not explicitly teach "providing a score for user's favorite programs." However, Ismail discloses (col.12, lines 61-66) that the system determines viewer preference based on viewer choosing each program with the highest score as represented in Fig. 6. Therefore, it would have been obvious to one of the ordinary skills in the

art at the time of the invention to modify Alexander's invention by using score to evaluate a viewer's favorite program as taught by Ismail in order to provide valuable information about the television viewing habits of the viewer (col.1, lines 61-62).

Regarding **claim 2**, "the method wherein: for each of the plurality of commercials, the providing the metric comprises summing, over each of the plurality of programs, a product of the score for each of the plurality of programs and the correlation factor for each of the plurality of commercials relative to each of the plurality of programs" Alexander discloses (col.34, 36-41) that the viewer selects sports as his favorite program, EPG provider determines a related advertisement of automobiles matches with sports theme and based on this decision, EPG provides automobile ads to a viewer who selected sports theme. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG determines an educational ad related to Nova program and displays an advertisement for educational computer to viewer.

Regarding **claim 3**, "the method further comprises the step of: selecting at least one of the plurality of commercials to provide to the at least one user based on its metric" Alexander discloses (col.33, lines 36-40) that when viewer is

watching a program called "Nova" (an educational science program), EPG displays an advertisement for educational computer.

Regarding **claim 4**, "the method wherein: for each of the plurality of programs, the providing a score indicating a degree of preference of the at least one user comprises using a program recommender" Ismail discloses (col.11, lines 20-26; col.16, lines 54-55) that the preference determination unit is used to predict a user's preference in the choice of TV programs by recommending programs to users. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Alexander's invention by using score to evaluate a viewer's favorite program as taught by Ismail in order to provide valuable information about the television viewing habits of the viewer (col.1, lines 61-62).

Regarding **claim 5**, "the method wherein: for each of the plurality of commercials, the respective correlation factors are provided by advertisers associated therewith" Alexander discloses (col.33, lines 8-15; col.34, lines 61-63) that the viewer's profile information is provided to advertisers and advertisers decide which advertisement to display based on the analyzed results.

Regarding **claim 6**, "the method wherein: the programs comprise video programs" Alexander discloses (col.6, lines 65-66; claim 13) that the viewer is watching video programming.

Regarding **claim 7**, "the method wherein: the programs comprise television programs" Alexander discloses (col.6, lines 65-66; claim 13) that the viewer is watching television programming.

Regarding **claim 8**, "the method wherein: the programs comprise audio programs" Alexander discloses (col.31, lines 41-43) that the viewer who watches news broadcast includes audio portions.

Regarding **claim 9**, "the method wherein: the programs have audio and video portions" Alexander discloses (col.31, lines 41-45) that the viewer who watches news broadcast includes audio and video portions.

Regarding **claim 10**, "an apparatus for selecting personalized commercials" reads on the method for improved opportunities for the commercial advertiser to reach the viewer (abstract) disclosed by Alexander and represented in Fig. 1.

As to "said apparatus comprising: means for providing, for each of a plurality of programs, a score indicating a degree of preference of at least one

user in relation thereto" Alexander discloses (col.28, lines 11-21) that the viewer provide profile information such as top favorite programs to the EPG provider.

As to "means for providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs" Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information, where viewer selected his favorite programs, to customized advertisements related to his/her favorite programs.

As to "means for providing, for each of the plurality of commercials, a metric indicating a degree of effectiveness in relation to the at least one user based on the scores and the respective correlation factors" Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalized the scheduling of telecast advertisements that are related to the television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays different advertisements depending upon which program the viewer is currently watching.

Alexander meets all the limitations of the claim except he does not explicitly teach "providing a score for user's favorite programs." However, Ismail discloses (col.12, lines 61-66) that the system determines viewer preference

based on viewer choosing each program with the highest score as represented in Fig. 6. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Alexander's invention by using score to evaluate a viewer's favorite program as taught by Ismail in order to provide valuable information about the television viewing habits of the viewer (col.1, lines 61-62).

Regarding **claim 11**, "the apparatus wherein: the means for providing the metric sums, over each of the plurality of programs, a product of the score for each of the plurality of programs and the correlation factor for each of the plurality of commercials relative to each of the plurality of programs" Alexander discloses (col.34, 36-41) that the viewer selects sports as his favorite program, EPG provider determines a related advertisement of automobiles matches with sports theme and based on this decision, EPG provides automobile ads to a viewer who selected sports theme. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG determines and educational ad related to Nova program and displays an advertisement for educational computer to viewer.

Regarding **claim 12**, "an apparatus for selecting personalized commercials" reads on the method for improved opportunities for the commercial

advertiser to reach the viewer (abstract) disclosed by Alexander and represented in Fig. 1.

As to "apparatus comprising: a program recommender providing, for each of a plurality of programs, a score indicating a degree of preference of at least one user in relation thereto" Alexander discloses (col.28, lines 11-21) that the viewer provide profile information such as top favorite programs to the EPG provider.

As to "a commercial classifier providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs" Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information, where viewer selected his favorite programs, to customized advertisements related to his/her favorite programs.

As to "a processor providing, for each of the plurality of commercials, a metric indicating a degree of effectiveness in relation to the at least one user based on the scores and the respective correlation factors" Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalized the scheduling of telecast advertisements that are related to the television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays

different advertisements depending upon which program the viewer is currently watching.

Alexander meets all the limitations of the claim except he does not explicitly teach "providing a score for user's favorite programs." However, Ismail discloses (col.12, lines 61-66) that the system determines viewer preference based on viewer choosing each program with the highest score as represented in Fig. 6. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Alexander's invention by using score to evaluate a viewer's favorite program as taught by Ismail in order to provide valuable information about the television viewing habits of the viewer (col.1, lines 61-62).

Regarding **claim 13**, "the apparatus wherein: the processor provides the metric by summing, over each of the plurality of programs, a product of the score for each of the plurality of programs and the correlation factor for each of the plurality of commercials relative to each of the plurality of programs" Alexander discloses (col.34, 36-41) that the viewer selects sports as his favorite program, EPG provider determines a related advertisement of automobiles matches with sports theme and based on this decision, EPG provides automobile ads to a viewer who selected sports theme. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG

determines and educational ad related to Nova program and displays an advertisement for educational computer to viewer.

Regarding **claim 14**, "a program storage device tangibly embodying a program of instructions executable by a machine to perform a method for selecting personalized commercials" reads on the method for improved opportunities for the commercial advertiser to reach the viewer (abstract) disclosed by Alexander and represented in Fig. 1.

As to "the method comprising: providing, for each of a plurality of programs, a score indicating a degree of preference of at least one user in relation thereto" Alexander discloses (col.28, lines 11-21) that the viewer provides profile information such as top favorite programs to the EPG provider.

As to "providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs" Alexander discloses (col.32, lines 24-34) that the EPG uses viewer's profile information, where viewer selected his favorite programs, to customized advertisements related to his/her favorite programs.

As to "providing, for each of the plurality of commercials, a metric indicating a degree of effectiveness in relation to the at least one user based on the scores and the respective correlation factors" Alexander discloses (col.32, lines 35-39) that the EPG and the profile program use Viewer profile information to personalized the scheduling of telecast advertisements that are related to the

television program that the viewer is watching. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG displays an advertisement for educational computer. Alexander further discloses (col.34, lines 4-8) that the EPG displays different advertisements depending upon which program the viewer is currently watching.

Alexander meets all the limitations of the claim except he does not explicitly teach "providing a score for user's favorite programs." However, Ismail discloses (col.12, lines 61-66) that the system determines viewer preference based on viewer choosing each program with the highest score as represented in Fig. 6. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Alexander's invention by using score to evaluate a viewer's favorite program as taught by Ismail in order to provide valuable information about the television viewing habits of the viewer (col.1, lines 61-62).

Combination of Alexander and Ismail meets all the limitations of the claim except "a computer program stored on the storage medium." However, the Examiner takes official notice that it was well known in the art at the time of the invention to store computer program on computer readable medium. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to store computer readable program on recorded medium to Alexander and Ismail's system would have yielded predictable result of easily installing program on the other computer devices.

Regarding **claim 15**, "the program storage device wherein the providing the metric comprises summing, over each of the plurality of programs, a product of the score for each of the plurality of programs and the correlation factor for each of the plurality of commercials relative to each of the plurality of programs" Alexander discloses (col.34, 36-41) that the viewer selects sports as his favorite program, EPG provider determines a related advertisement of automobiles matches with sports theme and based on this decision, EPG provides automobile ads to a viewer who selected sports theme. Alexander further discloses (col.33, lines 36-40) that when viewer is watching "Nova" (an educational science program), EPG determines and educational ad related to Nova program and displays an advertisement for educational computer to viewer.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425